

# Exhibit A

## Entrapment

The government cannot implant in an innocent person's mind the disposition to commit a criminal act and then induce commission of the crime so that the Government may prosecute. This is known as entrapment and is a defense to the charge of making false statements. Entrapment occurs when a government agent coaxes the defendant into providing statements for the sole purpose of eliciting a false statement.

To find entrapment, you must determine that the defendant has demonstrated that the government induced him to commit the crime. "Inducement" means that the government acted in an excessive manner that would prompt a reasonably firm person to commit the crime. This requires more than mere solicitation to commit a crime or mild forms of persuasion. If you find inducement, the burden shifts to the government to prove beyond a reasonable doubt that the defendant's decision to commit the crime was the product of his own disposition that did not originate from the government's persuasion.<sup>1</sup>

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<sup>1</sup> Instruction is adapted from Fourth Circuit's recognized "perjury entrapment" defense. *United States v. Saribifard*, 155 F.3d 301, 308-09 (4th Cir. 1998) ("Perjury entrapment occurs when a government agent coaxes a defendant to testify under oath for the sole purpose of eliciting perjury.").

Sources: *Saribifard*, 155 F.3d at 308-09; *Jacobson v. United States*, 503 U.S. 540, 548 (1992)); *Brogan v. United States*, 522 U.S. 398, 408 (Ginsburg, J., concurring) (18 U.S.C. § 1001 confers authority on the government "to manufacture crimes" and where an investigator asks questions about other elements to which she already knows the answer and seeks prosecution for the lie as a substitute for the crime she cannot prove, it is simply the government generating crime); *see also id.* at 418 (Stevens, J., dissenting) (agreeing with nearly all of what Justice Ginsburg wrote).